

REMARKS/ARGUMENTS

In this Amendment, claims 59, 60, 79-81, 83, 84, 95, 96, 98 and 99 are currently amended; claims 55-58, 61-65, 78, 82, 85, 89-94 and 97 were previously presented; and claims 1-54, 66, 67 and 86-88 are canceled without prejudice or disclaimer.

No new matter has been introduced into the application by virtue of the amended claims, which contain formalistic changes to the claim language and which are supported by the application as filed. More specifically, support for the recitation of vitamins D2 and D3 in amended claims 79 and 99 is found in the specification of the instant application on page 6, line 16.

Accordingly, claims 55-65, 68-85 and 89-99 are currently pending in the application.

The Examiner has stated that Applicants' amendments and remarks submitted on February 8, 2005 have overcome the prior rejections in this application and that the elected species has been found allowable. Accordingly, the Examiner has extended examination to non-elected species that read on the pending claims.

Claim Objections

Claims 59, 60, 80-84 and 95-98 have been objected to as allegedly being dependent upon a rejected base claim. According to the Examiner, these claims would be found allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicants respectfully submit that in view of the present amendments to claims 79 and 99, which are fully supported by the disclosure of the instant specification as described hereinabove, the objection to the above-cited claims is mooted. Withdrawal of the objection to these claims is thus respectfully requested.

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The claims fulfill the requirements of 35 U.S.C. § 112, first paragraph

Claims 55-58, 61-65, 68-79, 85, 89-94 and 99 were rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the written description requirement. According to the Examiner, claims 79 and 99, as well as related antecedent and dependent claims, lack support for the recitation of vitamin B2 and B3 in the application as originally filed.

Applicants submit that currently amended claims 79 and 99, which recite vitamins D2 and D3 as supported by the application as filed, moots this rejection. Accordingly, it is respectfully requested that the §112, first paragraph rejection be withdrawn.

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CONCLUSION

Applicants respectfully submit that this application is now in condition for allowance or in better form for appeal. An action progressing this application to issue is courteously urged.

Should any additional fees be deemed to be properly assessable in this application for the timely consideration of this Amendment and response, or during the pendency of this application, the Commissioner is hereby authorized to charge any such additional fee(s), or to credit any overpayment, to Deposit Account No. **50-0311**, Reference No. **28069-541 NATL**, Customer No. **34537**.

Should an extension of time be required for the timely consideration of this Amendment and response, the Commissioner is hereby authorized to grant any such extension of time, and to charge any additional fee(s) owed by Applicants for such extension of time, to the above-mentioned Deposit Account, Reference and Customer Numbers.

If the Examiner believes that further discussion of the application would be helpful, the Examiner is respectfully requested to telephone the undersigned at (212) 692-6742 and is assured of full cooperation in an effort to advance the prosecution of the instant application and claims to allowance.

Respectfully submitted,

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AND POPEO, P.C.

Date: August 29, 2005

By:


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